

House Foreign Affairs Committee
Tom Lantos Human Rights Commission

Briefing

on

Democratic Republic of the Congo: An Update

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2255 Rayburn House Office Building

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Thank you to the members of the Commission for the invitation to speak to you today. I am grateful for Congress' continued interest in the Democratic Republic of the Congo (DRC) at this very troubling time for the country, as the government uses violence and repression to maintain its unconstitutional hold on power, and ethnic violence continues to grow and spread. I have been asked to focus my remarks on key challenges for the UN Stabilization Mission in the DRC (MONUSCO).

A. Key Challenges for MONUSCO

Despite its limited track record of success in many areas, MONUSCO plays a vital role in monitoring and reporting on human rights violations, ensuring public access to unbiased information through its radio station, maintaining the infrastructure that enables access to many parts of the country, and reducing instability in the eastern provinces. The mission's role as a human rights monitor is becoming even more critical as the Congolese government continues to commit exactions against journalists and activists.¹

¹ See United Nations Joint Human Rights Office, *Report on Human Rights Violations in the Democratic Republic of the Congo in the Context of the Events of 19 December 2016*, February 2017, http://www.ohchr.org/Documents/Countries/CD/UNJHRODecember2016_en.pdf; Human Rights Watch, *World Report 2017: Democratic Republic of Congo*, 2017, <https://www.hrw.org/world-report/2017/country-chapters/democratic-republic-congo>; Amnesty International, *Democratic Republic of the Congo 2016,2017, 2017*, <https://www.amnesty.org/en/countries/africa/democratic-republic-of-the-congo/report-democratic-republic-of-the-congo>.

MONUSCO currently faces two main challenges with respect to the worsening human rights situation: the stalled implementation of the December 31 framework² and inadequate support from UN member states.

1) Stalled Implementation of the December 31 Framework

Supporting the implementation of the December 31 framework is now the central piece of MONUSCO's political strategy in the DRC.³ However, the government has strongly resisted efforts to move forward on implementation, and there is little confidence in the framework among national stakeholders. If the framework fails, MONUSCO will be put in an extremely difficult position as a peacekeeping mission that is mandated to provide support to an illegitimate government, unmoored from a political strategy.

The UN Secretariat sees three possible scenarios for how this situation could unfold, each posing its own challenges for MONUSCO.⁴

- Best-case scenario: The parties make good-faith progress toward implementation in 2017 and credible elections are held in 2018. MONUSCO would have to assist with providing sufficient security for free and safe elections, and then reorient its activities toward stabilization and support to the new government. This scenario is highly unlikely to materialize.
- Status quo scenario: The government continues to use stalling tactics while making no real progress toward the implementation of the framework. Elections are not held and there is no realistic prospect of elections in the near future.
- Worst-case scenario: The December 31 framework is explicitly abandoned. Protests break out around the country, met with even more severe human rights violations by the government. The country becomes extremely unstable on a scale that MONUSCO is unable to manage. President Kabila consolidates his unconstitutional hold on power.

² An agreement signed on December 31, 2016, negotiated by government and opposition groups and facilitated by the National Episcopal Conference of the Congo (CENCO). The agreement is also referred to as the Saint-Sylvestre Accord. It sets out a plan for the holding of elections in 2017 and a peaceful transition of power, with current president Joseph Kabila required to step down.

³ See UN Security Council Resolution 2348, S/RES/2348, March 31, 2017, paras. 1-7 and para. 28(b).

⁴ See further International Peace Institute, Stimson Center, and Security Council Report, *Applying the HIPPO Recommendations to the DRC: Toward Strategic, Prioritized, and Sequenced Mandates*, July 2017, 4, https://www.ipinst.org/wp-content/uploads/2017/08/1707_Applying-HIPPO-to-DRC.pdf.

One of the most difficult aspects of the status quo scenario is determining at what point the government's violations of the December 31 agreement are so egregious, and so unlikely to change, that the framework should be considered abandoned. The government appears to be trying to use a combination of token gestures toward implementation⁵ and attempts to stir up insecurity as a pretext for delayed elections⁶ in order to disguise its efforts to stall implementation. This makes it difficult for the mission to pinpoint the moment at which the government should be considered illegitimate and hold the government accountable.

2) Inadequate Support from UN Member States

The Kabila government knows that it holds a trump card: UN peacekeeping missions cannot deploy without the consent of the host-state government. President Kabila has used the threat of expulsion many times since taking office to try to control MONUSCO's actions, and only the

⁵ For example, on April 7, President Kabila named Bruno Tshibala as Prime Minister and head of the CNSA (Comité nationale pour de suivi de l'accord) oversight committee. This position was to be selected by the Rassemblement opposition coalition per the December 31 agreement. Tshibala is an expelled member of the UDPS opposition group; his appointment allows the government to create the false impression of an opposition figure in the Prime Minister's role (Aaron Ross, "Congo's Kabila Names Transitional Government, Defying Main Opposition," Reuters, May 9, 2017, <http://www.reuters.com/article/us-congo-politics-idUSKBN1851MU>; "Kabila Names Bruno Tshibala New DRC Prime Minister," Al Jazeera, April 7, 2017, <http://www.aljazeera.com/news/2017/04/kabila-names-bruno-tshibala-drc-prime-minister-170407201215507.html>). In a speech to Parliament on May 20, Kabila said "we will stick to the electoral calendar," ("DR Congo President Kabila Warns against Foreign Meddling," BBC News, April 5, 2017, <http://www.bbc.com/news/world-africa-39503929>) which some interpreted as a promise to hold elections before the end of 2017, as outlined in the December 31 agreement (Connor Gaffey, "Congo's President Says Elections to be Held in 2017, Warns of 'Foreign Interference,'" Newsweek, April 5, 2017, <http://www.newsweek.com/joseph-kabila-congo-elections-579640>). However, Kabila later denied that he promised to hold elections before the end of 2017 (Kimiko de Freytas-Tamura, "When Will Kabila Go? Congolese Leader Long Overstays His Welcome," New York Times, July 23, 2017, <https://www.nytimes.com/2017/07/23/world/africa/congo-joseph-kabila-elections.html>).

⁶ For example, some allege that the DRC government allowed protests by the Bundu dia Kongo (BDK) political-religious group "with the aim of creating chaos and repression that would justify the imposition of further election delays" (Ida Sawyer, "Confusion Surrounds DR Congo Sect Protests Leaving at Least 27 Dead," Human Rights Watch, August 10, 2017, <https://www.hrw.org/content/307725>). The UN High Commissioner to the Interactive Dialogue on the Democratic Republic of the Congo has noted reports that the Bana Mura militia, responsible for recent and brutal violence in the Kasai region, is armed and directed by government authorities ("Statement of the High Commissioner to the Interactive Dialogue on the Democratic Republic of the Congo, 35th Session of the Human Rights Council," Office of the High Commissioner for Human Rights, June 20, 2017, <http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=21779>). Some allege that the DRC government has deliberately stoked violence in the Kasai region (an opposition stronghold area) as a pretext to delay elections (Max Hess, "Democratic Republic of Congo: Kamwina Nsapu Violence Foretells Deadly Conflict," AKE Group, July 27, 2017, <http://akegroup.com/2017/07/27/democratic-republic-congo-kamwina-nsapu-violence-foretells-deadly-conflict>; Christina Okello, "Unrest in DRC's Kasai Province Puts Question Mark over Elections," Radio France Internationale, June 16, 2017, <http://en.rfi.fr/africa/20170615-kasai-unrest-casts-doubts-elections-dr-congo-kabila>).

international community can truly defuse that threat by sending strong political messages to the government that this behavior will not be tolerated.

This has not happened. On the contrary, in March this year, the US successfully pushed for the MONUSCO troop ceiling to be reduced by 3,600 troops,⁷ which could be interpreted as a symbolic victory by the Kabila government (which had tried unsuccessfully to demand a cut of 1,700 to the troop ceiling the previous year in an attempt to intimidate the mission).⁸ The budget cut of \$100 million for the 2017/18 financial year,⁹ despite increased operational demands on the mission, will likely also be interpreted as a sign that the Security Council is not truly invested in MONUSCO's success.

For many years now, UN member states have looked for a way to withdraw the UN peacekeeping presence in the DRC, which has been costly and which has seen little progress toward lasting peace. President Kabila, looking at UN member states' impatience to wrap up MONUSCO and their reluctance to invest more in the DRC, may believe that he can wait out the crisis, block effective action by the mission, and not face any real consequences from the international community.

Regional neighbors, which could provide critical political support to MONUSCO by pressuring the government to comply with the December 31 framework, have also done too little. On the contrary, the DRC government has recently made progress in shoring up regional support. Thanks to its diplomatic outreach to important neighbors, it has secured condemnations of US and EU sanctions, statements echoing the idea that elections may need to be delayed because of insecurity in the Kasais, and denouncements of non-African interference in the DRC's domestic

⁷ See UN Security Council Resolution 2348, S/RES/2348, March 31, 2017, para. 27, authorizing a troop ceiling of 16,215 military personnel for MONUSCO, reduced from 19,815 military personnel authorized for MONUSCO the previous year by UN Security Council Resolution 2277, S/RES/2255, March 30, 2016, para. 25. In practice, since the actual MONUSCO troop deployment fell below the authorized troop ceiling, fewer than 500 troops were sent home as a result of the cut ("UN Renews Smaller DRC Peacekeeping Force," Al Jazeera, March 31, 2017, <http://www.aljazeera.com/news/2017/03/renews-smaller-drc-peacekeeping-force-170331184227995.html>).

⁸ Stimson Center and Better World Campaign, *Challenges and the Path Forward for MONUSCO*, June 2016, <https://betterworldcampaign.org/wp-content/uploads/2016/07/Stimson-BWC-MONUSCO-Paper-FINAL.pdf>, 4.

⁹ The UN General Assembly approved a budget of approximately \$1.14 billion to maintain MONUSCO for the period from July 1, 2017 to June 30, 2018 ("General Assembly Approves Appropriation of \$6.8 Billion for 14 Peacekeeping Operations in 2017/18," United Nations, June 30, 2017, <https://www.un.org/press/en/2017/ga11927.doc.htm>). This figure is reduced from approximately \$1.24 billion approved for the previous financial year ("General Assembly Approves Nearly \$8 Billion for 15 Peacekeeping Missions in 2016/2017," United Nations, June 17, 2016, <https://www.un.org/press/en/2016/ga11794.doc.htm>).

affairs.¹⁰ These actions legitimize the government's unconstitutional behavior and make it more difficult for MONUSCO to use its good offices for the implementation of the December 31 agreement.

B. Recommendations

There is evidence that strong political support from the US and its partners can help improve peacekeeping missions' negotiating positions with similarly obstructive or hostile host-state governments. For example, the Obama administration announced its decision in January to lift trade sanctions against Sudan in July if the Sudanese government met several conditions, including conditions related to government behavior that obstructed the work of the UN-African Union peacekeeping mission in Darfur.¹¹ During that period, the Darfur mission found that its freedom of movement and its political influence on the Sudanese government improved. Strong US leadership on the DRC could help change President Kabila's political calculus, empower MONUSCO to play a stronger good offices role, and move the country toward elections.

1. The US government should continue to pursue sanctions targeting individuals involved in actions that undermine democratic processes in the DRC, as well as their business interests. The decision by the US on June 1 to sanction both François Olenga and the Safari Beach resort which he owns sent a powerful message.¹² The US government should consider placing under sanctions Kabila family business interests that enable the

¹⁰ President Kabila, who has not traditionally been very active at the African Union, went to Addis Ababa in early July and successfully lobbied for the Executive Council of the AU to condemn the targeted sanctions imposed by the US and the EU (Report of the Secretary-General on Progress in the Implementation of the Political Agreement of 31 December 2016, S/2017/712, August 15, 2017, para. 15). Eleven days later, representatives from the DRC, Angola, and South Africa met in Luanda to denounce "foreign interference in the internal affairs of the Democratic Republic of the Congo, calling for the withdrawal of targeted sanctions by non-African organizations and countries against officials of the Democratic Republic of the Congo" (Report of the Secretary-General on Progress in the Implementation of the Political Agreement of 31 December 2016, S/2017/712, August 15, 2017, para. 18). A week later, the government was able to ensure that a report of the Southern African Development Community contained a reference to the Kasai insecurity as potentially causing delays in the electoral timeline and a denouncement of sanctions (Report of the Secretary-General on Progress in the Implementation of the Political Agreement of 31 December 2016, S/2017/712, August 15, 2017, para. 19).

¹¹ Jeffrey Gettleman, "United States to Lift Sudan Sanctions," New York Times, January 13, 2017, <https://www.nytimes.com/2017/01/13/world/africa/sudan-sanctions.html>.

¹² See Human Rights Watch, "DR Congo: EU, US Sanction Top Officials," June 1, 2017, <https://www.hrw.org/news/2017/06/01/dr-congo-eu-us-sanction-top-officials/>.

Congolese government to undermine democratic processes.¹³

2. The US government should put pressure on the DRC government over its alleged role in the killings of Michael Sharp and Zaida Catalan, members of the UN Panel of Experts, and continue to call for a thorough investigation.¹⁴ This will reinforce to the DRC government that the US will not tolerate attempts to silence and intimidate UN workers.
3. The US Mission to the UN, together with the rest of the UN Security Council, should give MONUSCO clear guidance on when the Kabila government will be deemed illegitimate and what the mission's response should be. One option may be to establish a red line for non-compliance with the December 31 framework and, if that line is crossed, to provide MONUSCO with a new mandate suspending any activities that provide support to the Congolese government. The US Mission should also engage in discussions with the Security Council about alternative strategies that could be pursued if the December 31 framework fails – for example, supporting a new interim authority while preparing for elections, as was done in the Central African Republic, or replacing MONUSCO with an African Union mission which does not require the consent of the host-state government.
4. The US government should engage diplomatically with neighboring states to ensure that they do not legitimize President Kabila and to encourage them to pressure him to abide by the December 31 agreement. In addition, the White House should as soon as possible nominate an effective US ambassador to the DRC and appoint an Assistant Secretary of

¹³ For more information about Kabila family business interests, see Congo Research Group, *All the President's Wealth: The Kabila Family Business*, July 2017, <https://allthewealth.congoresearchgroup.org/dist/assets/all-the-presidents-wealth-ENG.pdf>. On alleged misappropriation of mining revenues by Kabila associates, see Global Witness, *Regime Cash Machine: How the Democratic Republic of Congo's Booming Mining Exports are Failing to Benefit Its People*, July 2017, https://www.globalwitness.org/documents/19146/Regime_Cash_Machine_Report_Final_Single_pages_BXObnIm.pdf.

¹⁴ On suspicions of DRC government responsibility for the killings, see Hannah Summers, "Video of UN Investigator Murders Leaves Congo Government Facing Scrutiny," *Guardian*, May 8, 2017, <https://www.theguardian.com/global-development/2017/may/08/congo-government-un-investigator-murders-scrutiny>. Ambassador Nikki Haley has called for a UN-led investigation and the Human Rights Council-led inquiry into the killings ("Press Release: Ambassador Nikki Haley Calls for Investigation into Atrocities in the Democratic Republic of the Congo," US Mission to the UN, June 5, 2017, <https://usun.state.gov/remarks/7823>).

State for the Bureau of African Affairs.

5. The US government should not advocate for or support further cuts to MONUSCO's budget or reductions to the mission's troop ceiling without a clear rationale for those cuts linked to the mission's political strategy and conditions on the ground. It should base decisions about MONUSCO's budget and troop ceiling on realistic assessments of what it wants the mission to achieve and what resources that will require.